



Appellant-Defendant Roxanne Keen alleges on appeal that the trial court abused its discretion in denying her Petition for Modification of Sentence.

On October 22, 2001, Keen was charged with Murder. Pursuant to a plea agreement, she pled guilty but mentally ill to the reduced charge of Voluntary Manslaughter, a Class A felony. The plea agreement capped the possible sentence at forty years and stated that any portion of the sentence in excess of thirty years would be suspended to probation. In the plea agreement, Keen reserved the right to petition for modification of her sentence after serving ten years, less any credit earned while incarcerated. On June 20, 2002, the sentencing court imposed a sentence of forty years with ten years suspended to probation.

On July 10, 2007, Keen filed a Petition to Modify Sentence.<sup>1</sup> After a hearing, the trial court denied the petition. Keen filed a Motion to Correct Errors, which the trial court denied. This appeal ensued.

Pursuant to Indiana Code Section 35-38-1-17(b), a trial court may reduce or suspend a defendant's sentence, subject to the approval of the prosecuting attorney if more than 365 days have elapsed since the defendant began serving the sentence. Here, the requisite approval was provided.<sup>2</sup> A trial court has broad discretion to modify a sentence. Banks v. State, 847 N.E.2d 1050, 1053 (Ind. Ct. App. 2006), trans. denied. We reverse only upon an abuse of that discretion, a decision that is clearly against the logic and effect of the facts and circumstances before the court. Id. In our review, we may not reweigh the evidence, but

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<sup>1</sup> With educational credit and credit time, Keen had served at least ten years of her sentence.

<sup>2</sup> Although there was no formal filing of its approval, it is implicit in the prosecutor's comment at the hearing that "the State is going to leave this [decision to modify] to the Court's discretion." Hearing transcript at 14.

only consider the evidence favorable to the judgment. Id.

At the hearing, Keen presented evidence that while incarcerated, she received three degrees, each with honors. Additionally, she has received awards for her diligent scholastic efforts. She also completed the Hope Center Parenting Program and attended two years of group therapy. Keen also testified that she has performed over 300 hours of community service. For her educational accomplishments, she has received four years of credit towards her sentence.<sup>3</sup> The trial court denied Keen's motion, reasoning that there had been insufficient time served in the matter to justify a modification.

While we commend Keen for her accomplishments and drive for personal improvement, we conclude that the trial court did not abuse its discretion. Keen was charged with murder and pled guilty but mentally ill to voluntary manslaughter. The record does not reflect the mental illness that afflicted Keen or the treatment sought to address it. Furthermore, her crime involved the loss of life, arising from a violent event. Moreover, Keen has received the benefit of four years credit towards her sentence for her educational achievements. Under these facts and circumstances, we do not believe the trial court abused its broad discretion in denying Keen's request for further reduction or modification of her sentence.

Affirmed.

FRIEDLANDER, J., and KIRSCH, J., concur.

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<sup>3</sup> See Ind. Code § 35-50-6-3.3.